

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 03-29-05.

The IRO reviewed office visit, therapeutic exercises, electrical stimulation – unattended, mechanical traction, neuromuscular re-education, PT evaluation, muscle testing extremity, ROM extremity or trunk, chiropractic manipulative treatment, self care management training and special report rendered from 05-17-04 through 06-16-04 that were denied based upon “V”.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order. The amount due from the carrier for the medical necessity issues equals **\$1,648.85**.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 04-29-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99080-73 date of service 05-17-04 denied with denial code “V” for unnecessary medical treatment based on a peer review; however, the TWCC-73 is a required report per Rule 129.5 and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter. Reimbursement is recommended in the amount of **\$15.00**. A Compliance and Practices referral will be made as the carrier is in violation of Rule 129.5.

### **ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees for dates of service 05-17-04 through 06-16-04 totaling \$1,663.85 in accordance with the Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Findings and Decision and Order are hereby issued this 24<sup>th</sup> day of May 2005.

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision



7600 Chevy Chase, Suite 400  
Austin, Texas 78752  
Phone: (512) 371-8100  
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### NOTICE OF INDEPENDENT REVIEW DECISION

**Date:** May 23, 2005

**To The Attention Of:** TWCC  
7551 Metro Center Drive, Suite 100, MS-48  
Austin, TX 78744-16091

**RE: Injured Worker:**  
**MDR Tracking #:** M5-05-2130-01  
**IRO Certificate #:** 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- TWCC forms
- Table of Disputed Services
- Examination Reports
- Health and Behavioral Assessment
- Designated Doctor Reports
- MRI Reports
- Letters from the Treating Physician
- FCE Reports
- Exercise Sheets
- Physical Therapy Notes
- Chiropractic Daily Notes

**Submitted by Respondent:**

- Peer Review Report
- MRI Reports
- Electrodiagnostic Consultation
- EMG/NCV Reports
- FCE Reports
- TWCC-69 Reports
- TWCC Forms
- Narrative Reports
- Behavioral Questionnaires
- Chart Notes

**Clinical History**

According to the supplied documentation, claimant sustained an injury to his lumbar spine on \_\_\_\_\_. The claimant reported that while lifting a dishwasher into a trash dumpster, he felt a severe pain in his lumbar spine. Approximately a week later, claimant began chiropractic care. MRI was performed on 4/6/04 that showed a 3mm disc herniation at L3/4, L4/5 and L5/S1. Disc desiccation was also noted. Claimant continued to undergo chiropractic care. On 4/16/04, claimant underwent a designated doctor exam. It was determined the claimant was at maximum medical improvement with a 5% whole person impairment. The second designated doctor exam was performed on 6/4/04 and it was determined the claimant was not at maximum medical improvement and the claimant needed additional care. The designated doctor reported that the claimant needed further testing, such as a discogram and also may be a candidate for work hardening program. Documentation continued beyond this point but was not needed due to the dates of service in question.

### **Requested Service(s)**

Therapeutic exercises (97110), electrical stimulation - unattended (G0283), mechanical traction (97012), neuromuscular re-education (97112), PT evaluation (97001), muscle testing extremity (95831), ROM extremity or trunk (95851), office visit (99213), chiropractic manipulative treatment (98940/98941), self care management training (97535), and special report (99080) for dates of service of 5/17/04 to 6/16/04.

### **Decision**

I disagree with the insurance carrier and find that the services in dispute were medically necessary.

### **Rationale/Basis for Decision**

According to the supplied documentation, the claimant sustained an injury in \_\_\_\_\_. It appears the claimant underwent some form of therapy during 2003, but neither the provider nor the carrier elaborated on what treatment was performed other than the MRI that was done in August of 2003. January of 2004, chiropractic therapy was begun to treat the compensable injuries that included a lumbar sprain/strain as well as disc protrusions. After several months of care, the dates of service in question reveal the claimant was undergoing a limited amount of passive therapy as well as active care. The documentation supplied appears to support that this was reasonable and medically necessary to treat the compensable injury. The designated doctor report done in June of 2004 which is during the time of the disputed services, agrees that the claimant was not at maximum medical improvement and further therapy was needed. The designated doctor recommended a work hardening program which would support ongoing therapies would have been necessary.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 23<sup>rd</sup> day of May 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder